IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FOTOMEDIA TECHNOLOGIES, INC.

Plaintiff,

vs.

AOL LLC, AMERICA ONLINE, INC., PHOTOBUCKET.COM, INC., SHUTTERFLY, INC., CNET NETWORKS, INC. AND YAHOO! INC.

Defendants.

Civil Action No. 2:07-cv-00255-TJW-CE

JURY TRIAL DEMANDED

CNET NETWORKS, INC.'S NOTICE OF JOINDER IN PHOTOBUCKET INC.'S MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM PURSUANT TO FRCP 12(B)(6) OR, IN THE ALTERNATIVE, MOTION FOR A MORE DEFINITE STATEMENT, AND MOTION TO STRIKE

CNET NETWORKS, INC. ("CNET") adopts and joins in for all purposes Photobucket Inc.'s Motion to Dismiss for Failure to State a Claim Pursuant to FRCP 12(b)(6) or, in the Alternative, Motion for a More Definite Statement, and Motion to Strike, and Memorandum of Points and Authorities in Support Thereof ("Motion"), and in support thereof, would show the Court as follows:

On September 7, 2007, Photobucket Inc. filed its Motion. To best serve justice and avoid unnecessary or duplicative effort, time, or expense to the Court and the parties involved, CNET now adopts and joints in the Motion in its entirety, including any and all contents, statements, and arguments. For all reasons stated in the Motion, CNET requests that the Court either dismiss Plaintiff FotoMedia Technologies, LLC's ("Plaintiff") claims for inducement, contributory infringement, and willful infringement or require Plaintiff to replead to allow CNET to properly respond to Plaintiff's complaint.

Dockets.Justia.com

Wherefore, CNET respectfully requests this Court to permit CNET to join in and adopt the Motion in its entirety; grant the relief requested in the Motion; and grant CNET such other and further relief, at law and in equity, to which it may be entitled.

DATED: September 7, 2007

Respectfully submitted,

By: _/s/ Patrick T. Michael___________
Patrick T. Michael
(*pro hac vice*)
pmichael@nixonpeabody.com
Beth L. Mitchell
(*pro hac vice*)
bmitchell@nixonpeabody.com
Laura K. Carter
(*pro hac vice*)
lcarter@nixonpeabody.com

Attorneys for Defendant
CNET Networks, Inc.

NIXON PEABODY LLP
One Embarcadero Center, 18th Floor
San Francisco, CA 94111
Tel: (415) 984-8200
Fax: (415) 984-8300

G. William Lavender
LAVENDER LAW
Landmark Building
210 N. State Line Avenue, Suite 503
Texarkana, AR 71854
Tel: (870) 773-3187
Fax: (870) 773-3181
blav@lavenderlaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 7, 2007, a copy of the foregoing CNET NETWORKS, INC.'S NOTICE OF JOINDER IN PHOTOBUCKET INC.'S MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION FOR A MORE DEFINITE STATEMENT, AND MOTION TO STRIKE was served electronically, via CM/ECF, on all counsel of record below who are deemed to have consented to such service under the Court's local rules. Any other counsel of record will be served via facsimile and certified mail, return receipt requested.

Mike McKool, Jr.
Lewis T. LeClair
McKool Smith PC
300 Crescent Court, Suite 1500
Dallas, TX 75201
Tel: 214-978-4000
Fax: 214-978-4044
mmckool@mckoolsmith.com
lleclair@mckoolsmith.com

Sam F. Baxter
McKool Smith PC
505 E. Travis, Suite 105
Marshall, TX 75670
Tel: 903-927-2111
Fax: 903-927-2622
sbaxter@mckoolsmith.com

Travis Gordon White
John Shumaker
Ivan Wang
McKool Smith PC
300 W. 6th Street, Suite 1700
Austin, TX 78701
Tel: 512-692-8700
Fax: 512-692-8744
gwhite@mckoolsmith.com
jshumaker@mckoolsmith.com
iwang@mckoolsmith.com

Attorneys for Plaintiff
Fotomedia Technologies, Inc.

Darryl M. Woo
Heather N. Mewes
Fenwick & West LLP
555 California Street, 12th Floor
San Francisco, CA 94104
Tel: 415-875-2300
Fax: 415-281-1350
dwoo@fenwick.com
hmewes@fenwick.com

Tyler Baker
Joseph Belichick
Fenwick & West LLP
801 California Street
Mountain View, CA 94041
tbaker@fenwick.com
jbelichick@fenwick.com

Attorneys for Defendant
Shutterfly, Inc.

/s/ Kim Love
Kim Love